

American Bar Association accorded her a majority rating of "not qualified," as it has several of this President's judicial nominees. Nonetheless, the Judiciary Committee held a hearing on her nomination. The Members of the Committee examined the nomination on the merits and reached their own judgment. With the support of Senator SCHUMER of New York, the nomination was favorably reported. While Senate consideration will include some brief debate, there is no reason this matter has not been scheduled and considered in the last seven months. It could easily have been considered during the course of an extended quorum call during any one of the many days when there is no significant business taking place on the Senate floor. As I have reiterated for months, there is no Democratic hold on this nomination. It merits a brief discussion, but we are prepared to vote on it. Republican delay has prevented action on this nomination.

I do not recall this lengthy a delay in scheduling debate on a Latina nominee since the untoward Republican obstruction of Senate consideration of President Clinton's nomination of Judge Sonia Sotomayor to the U.S. Court of Appeals for the Second Circuit in 1999. That nomination of an outstanding judge, who had been appointed to the federal bench by President George H.W. Bush, was delayed for more than 400 days in all and waited 7 months on the Senate floor, before we were able to force action and a vote on her confirmation. According to some accounts, she was delayed over Republican concerns that she would be chosen by President Clinton for the Supreme Court if a vacancy arose.

Likewise, the Senate's Republican leadership has not yet scheduled a vote on the nomination of Ricardo S. Martinez to be a United States District Court Judge for the Western District of Washington or Juan R. Sanchez to be a United States District Court Judge for the Eastern District of Pennsylvania.

Despite Republican delays in the consideration of President Bush's Hispanic nominees, the Senate has already confirmed, unanimously, three of his Hispanic nominees to the circuit courts and 11 to the district courts. Ms. Herrera will be the 12th Latino district court nominee and 15th overall confirmed by the Senate.

Unfortunately this White House's commitment to diversity seems shallow when compared to its devotion to ideological purity. The President has nominated many more members of the Federalist Society than members of the nation's fastest growing ethnic group. The White House has sent over the nominations of more than 45 individuals active in the Federalist Society, which is more than twice as many Latinos as he has nominated. In fact, the President has chosen more individuals involved in the Federalist Society than Latinos, African Americans, and Asian Americans combined.

We have made significant progress over the last three years in reducing Federal judicial vacancies. As of today, there are only 43 total vacancies in the Federal court system. That stands in sharp contrast to the treatment Republicans accorded President Clinton's nominees. Indeed, under Republican leadership, from 1995 to the summer of 2001 the number of vacancies in the federal courts rose from 63 to 110. We have now made up that 67 percent increase in vacancies the Republican Senate leadership had engineered between 1995 and 2001, and we have reduced vacancies from the 1995 level by one third, to the lowest vacancy level in 14 years. In spite of the way more than 60 of President Clinton's nominees were defeated by Republicans' objections, Senate Democrats have cooperated in the consideration and confirmation of 180 of this President's judicial nominations.

We now have 16 vacancies in the circuit courts. That is the number of vacancies that existed when Republicans took majority control of the Senate in 1995. Unfortunately, through Republican obstruction of moderate nominations by President Clinton, those circuit vacancies more than doubled, rising to 33 by the time Democrats resumed Senate leadership in the summer of 2001. We steadily reduced circuit vacancies over the 17 months that Senate Democrats were in charge. Even though since 2001 an additional 15 circuit vacancies have arisen, we have done what Republicans refused to do when President Clinton was in the White House by not only keeping up with attrition but actually working to reduce vacancies. We have now reduced circuit vacancies to the lowest level since before Republican Senate leadership irresponsibly doubled those vacancies in the years 1995 through 2001.

We should recognize the progress we have made. I certainly recognize the entirely different approach to judicial nominations Republicans have taken with a Republican President's nominations in contrast to their systematic obstruction of Senate action on President Clinton's judicial nominations. I would hope that we will be able to find ways to work together without too much more delay to consider the Hispanic nominees to the federal bench who Democrats are supporting.

I congratulate Ms. Herrera and her family on her confirmation today.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Judith C. Herrera, of New Mexico, to be United States District Judge for the District of New Mexico?

Mrs. HUTCHISON. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from Colorado (Mr. CAMPBELL) is necessarily absent.

Mr. REID. I announce that the Senator from Montana (Mr. BAUCUS), the Senator from Delaware (Mr. BIDEN), the Senator from New Jersey (Mr. CORZINE), the Senator from North Carolina (Mr. EDWARDS), the Senator from Massachusetts (Mr. KERRY), and the Senator from Georgia (Mr. MILLER) are necessarily absent.

The PRESIDING OFFICER (Mr. GRAHAM of South Carolina). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 93, nays 0, as follows:

[Rollcall Vote No. 110 Ex.]

YEAS—93

Akaka	Domenici	Lott
Alexander	Dorgan	Lugar
Allard	Durbin	McCain
Allen	Ensign	McConnell
Bayh	Enzi	Mikulski
Bennett	Feingold	Murkowski
Bingaman	Feinstein	Murray
Bond	Fitzgerald	Nelson (FL)
Boxer	Frist	Nelson (NE)
Breaux	Graham (FL)	Nickles
Brownback	Graham (SC)	Pryor
Bunning	Grassley	Reed
Burns	Gregg	Reid
Byrd	Hagel	Roberts
Cantwell	Harkin	Rockefeller
Carper	Hatch	Santorum
Chafee	Hollings	Sarbanes
Chambliss	Hutchison	Schumer
Clinton	Inhofe	Sessions
Cochran	Inouye	Shelby
Coleman	Jeffords	Smith
Collins	Johnson	Snowe
Conrad	Kennedy	Specter
Cornyn	Kohl	Stabenow
Craig	Kyl	Stevens
Crapo	Landrieu	Sununu
Daschle	Lautenberg	Talent
Dayton	Leahy	Thomas
DeWine	Levin	Voinovich
Dodd	Lieberman	Warner
Dole	Lincoln	Wyden

NOT VOTING—7

Baucus	Corzine	Miller
Biden	Edwards	
Campbell	Kerry	

The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the President shall be immediately notified of the Senate's action.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2005—Continued

The PRESIDING OFFICER. The Senator from Massachusetts.

AMENDMENT NO. 3263

Mr. KENNEDY. Mr. President, I send an amendment to the desk on behalf of myself, the Senator from California, Mrs. FEINSTEIN, the Senator from Rhode Island, Mr. REED, the Senator from New Jersey, Mr. LAUTENBERG, and the Senator from Wisconsin, Mr. FEINGOLD, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows: